

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 31 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJARAT AGRICULTURAL UNIVERSITY

Versus

URVASHIDEVI D/O JAYDIPSINHJI BARIA

Appearance:

MR SA DESAI for Petitioner

MR HS MUNSHAW for Respondent No. 1

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 02/07/98

ORAL JUDGEMENT

Admit. By consent of the learned advocates for the parties, this appeal is taken up for final hearing today. The appellant who happens to be the plaintiff in special civil suit no. 72 of 1997 has filed the said suit for obtaining possession of the land in question by virtue of section 6 of the Specific Relief Act, 1963. In that suit, the plaintiff moved an application Exh. 5 for

obtaining the relief of interim injunction restraining the defendant from transferring or assigning the land in question or any portion thereof to anybody and also for relief of mandatory injunction directing the defendant to hand over possession of the land in question to the plaintiff. By the impugned order dated 2nd December, 1997, the learned trial Judge granted the interim injunction against the apprehended transfer of the suit land but did not grant mandatory injunction. That is how the appellant-plaintiff is before this Court in this appeal from order.

2. It is not in dispute that soon after the filing of the suit for possession as aforesaid, the defendant has also filed special civil suit no. 76 of 1997 challenging the status of the present plaintiff vis-a-vis the land in question.

3. Having heard the learned advocates for the parties and bearing in mind the facts and circumstances of the case, the order impugned herein cannot be set aside. However, since the suit in question is for obtaining the relief of possession of the land in question by virtue of the provisions of section 6 of the Specific Relief Act, it is obvious that the said suit has got to be decided on priority basis.

4. In the result, following order is passed :

While maintaining the impugned order, the trial Court is directed to hear and decide the special civil suit no. 72 of 1997 on priority basis as expeditiously as possible, preferably within six months from the date of receipt of these directions. It will be open to the parties to see that the special civil suit no. 76 of 1997 is also placed for hearing and disposal alongwith the special civil suit no. 72 of 1997.

Subject to this, this appeal is dismissed with no order as to cost.

02.07.1998. (M.S.Parikh,J.)

Vyas